

''

GZJ DKV'35''

Karim Oussayef

From: Robert Winant <RWinant@fenwick.com>
Sent: Friday, September 15, 2017 7:53 PM
To: Karim Oussayef; Jon Hohenthanner; 'Palapura, Bindu A. (bpalapura@potteranderson.com)'
Cc: IBM Groupon Service; Phillip Haack
Subject: IBM v Groupon (D. Del), Case No. 16-cv-122

Counsel,

Please find below instructions to access Groupon's production of a document - volume GRP-DEL014. The password for the zip file will follow in a separate email.

Sincerely,

Rob



ROBERT WINANT

Fenwick & West LLP
Senior Paralegal, Litigation Group

☐ (650) 335-7214

☐ (650) 938-5200

☐ rwinant@fenwick.com





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EXHIBIT 14

Michael Matulewicz-Crowley

From: Robert Harrits
Sent: Monday, December 5, 2016 11:56 AM
To: Lopez, Nancy; bpalapura@potteranderson.com; dmoore@potteranderson.com; John Desmarais; Jon Hohenthanner; Karim Oussayef; Laurie Stempler; sobyrne@potteranderson.com
Cc: alewin@fenwick.com; Day, John G.; dhadden@fenwick.com; Mayo, Andrew C.; phaack@fenwick.com; sshamilov@fenwick.com; IBM Groupon Service
Subject: International Business Machines Corporation v. Groupon, Inc., C.A. No. 16-122-LPS-CJB
Attachments: IBM v Groupon PO.PDF; Consulting Relationships.pdf; Chris Thompson CV.PDF

Counsel,

Pursuant to Paragraph 13(b) of the Protective Order in the above-captioned litigation, IBM discloses Chris Thompson. IBM intends to disclose Protected Material to Mr. Thompson. Attached please find Mr. Thompson's CV, which lists his previous employment and his publications. Also attached is a list of Mr. Thompson's previous consulting engagements and a signed copy of Exhibit A to the Protective order. Please let us know within five business days whether Defendants object to IBM disclosing Protected Material to Mr. Thompson.

In addition, pursuant to Paragraph 12(a)(ii) Chris Thompson will commence reviewing the source code on December 13, 2016.

Regards,
Robert

EXHIBIT 15

Michael Matulewicz-Crowley

From: Elizabeth Kimmel
Sent: Friday, March 3, 2017 2:46 PM
To: Jessica Benzler; Phillip Haack
Cc: Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com'; 'bpalapura@potteranderson.com'; IBM Groupon Service; 'dmoore@potteranderson.com'; Groupon_IBM_Service@Fenwick.com
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Counsel,

As memorialized by my email below, Groupon promised to give us an update this week on its progress and anticipated timeline for producing the following:

- [REDACTED]

You have not provided an update on those efforts, nor have you indicated when and to what extent Groupon will supplement its response to IBM's Interrogatory No. 2. Please let us know what you have done to search for those categories of documents and whether you will produce them by the deadline for substantial production of documents. Groupon cannot continue to defer its discovery obligations without explanation.

Regarding Groupon's RFPs, I can confirm that IBM has already searched for and produced relevant, non-privileged documents responsive to the non-objectionable scope of Groupon's requests. We will provide amended responses to the RFPs next week and will aim to supplement our production by the deadline for substantial completion of document discovery to the extent any additional responsive and discoverable documents exist.

Our forthcoming objections to Groupon's RFPs will include an objection to the entirety of RFP 95 as overbroad and unduly burdensome. In addition, as we discussed during our meet and confer, we will not produce confidential materials of parties to other litigations in response to general RFPs (such as, for example, RFP 34, 39, 59, 63, 66, 67, 80, and 82) absent a request for a specific type of document and fulsome explanation of why such material should be produced in this litigation. Such requests will be considered in light of the protective orders in those litigations.

Please note that our source code reviewer (Chris Thompson) will still return to review source code on Monday, March 6, starting at approximately 11:30am Pacific, until Thursday, March 9. Please confirm that your office can still accommodate him.

Regards,
Elizabeth

Elizabeth S. Kimmel
DESMARAIS LLP

230 Park Avenue
New York, NY 10169
T: (212) 351-3400 | F: (212) 351-3401
D: (212) 808-2964 | E: ekimmel@desmaraisllp.com

From: Jessica Benzler [<mailto:jbenzler@fenwick.com>]
Sent: Thursday, March 2, 2017 6:38 PM
To: Elizabeth Kimmel; Phillip Haack
Cc: Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com'; 'bpalapura@potteranderson.com'; IBM Groupon Service; 'dmoore@potteranderson.com'; Groupon_IBM_Service@Fenwick.com
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Additionally, as we discussed last week, we look forward to receiving confirmation from IBM today or tomorrow regarding the RFPs for which it is still refusing to produce documents.

From: Jessica Benzler
Sent: Thursday, March 02, 2017 3:01 PM
To: 'Elizabeth Kimmel'; Phillip Haack
Cc: Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com'; 'bpalapura@potteranderson.com'; IBM Groupon Service; 'dmoore@potteranderson.com'; '[Groupon IBM Service@Fenwick.com](mailto:Groupon_IBM_Service@Fenwick.com)
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Hi Elizabeth,

I apologize for the delayed response. We are still working on getting the requested information, including collecting the additional source code, which we have confirmed will not be available by Monday for review. We have no other updates to report at this time and both Phil and I are unavailable tomorrow for a follow-up call. If you would like to discuss these issues further, we can be available on Monday.

Thanks,
Jessica

From: Elizabeth Kimmel [<mailto:EKimmel@desmaraisllp.com>]
Sent: Wednesday, March 01, 2017 2:02 PM
To: Phillip Haack
Cc: Jessica Benzler; Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com'; 'bpalapura@potteranderson.com'; IBM Groupon Service; 'dmoore@potteranderson.com'; '[Groupon IBM Service@Fenwick.com](mailto:Groupon_IBM_Service@Fenwick.com)
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Hi Phillip,


I am writing to follow up on my email below. Are you available tomorrow or Friday before 3pm Eastern for a follow-up meet-and-confer? It may us save time on the call if you are able to provide any of the requested follow-up in writing, but I think we should schedule some time nonetheless.

Thanks,
Elizabeth

From: Elizabeth Kimmel
Sent: Friday, February 24, 2017 4:00 PM
To: 'Phillip Haack'
Cc: Jessica Benzler; Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com; bpalapura@potteranderson.com; IBM Groupon Service; dmoore@potteranderson.com; Groupon_IBM_Service@Fenwick.com
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Dear Phillip,

Thank you for the productive meet and confer yesterday afternoon on the issues discussed in my February 14th letter and Jessica's February 8th letter. I am writing to memorialize the following:

- Regarding Groupon's discovery responses:
 - Groupon agreed to provide an update on 3/2 or 3/3 as to when Groupon will supplement its discovery in the following categories:
 - 
 - Groupon agreed to provide an update on 3/2 or 3/3 as to when it would supplement its response to IBM's Interrogatory No. 2 to identify persons, and whether it would supplement to include additional times that Groupon was made aware of the patents-in-suit.
 - Groupon agreed to investigate what additional source code is relevant to IBM's infringement contentions and will provide an update on 3/2 or 3/3 as to when additional source code will be made available.
 - Groupon represented that no documents describing Groupon's webpage generating process were found after a reasonable search.
 - Groupon represented that no source code responsible for generating caching-related HTTP response headers in its SOA website/apps was found after a reasonable search.
 - Groupon agreed to provide an electronic source code manifest to IBM's outside counsel's offices within a few days.
- Regarding IBM's discovery responses:
 - IBM represented that it has searched its document production from the Priceline litigation for relevant, responsive documents.
 - IBM agreed to provide an update on 3/2 or 3/3 as to which RFPs IBM is refusing to produce documents for.

[REDACTED]

Best,
Elizabeth

Elizabeth S. Kimmel

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

T: (212) 351-3400 | F: (212) 351-3401

D: (212) 808-2964 | E: ekimmel@desmaraisllp.com

-----Original Message-----

From: Phillip Haack [<mailto:phaack@fenwick.com>]

Sent: Tuesday, February 21, 2017 11:50 AM

To: Elizabeth Kimmel

Cc: Jessica Benzler; Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com;
bpalapura@potteranderson.com; IBM Groupon Service; dmoore@potteranderson.com;
[Groupon IBM Service@Fenwick.com](mailto:Groupon_IBM_Service@Fenwick.com)

Subject: Re: Groupon-IBM (Del.) - IBM Discovery Responses

Elizabeth,

Thank you for your flexibility. We are available then.

Best,
Phil

Sent from my phone.

On Feb 21, 2017, at 8:44 AM, Elizabeth Kimmel <EKimmel@desmaraisllp.com<<mailto:EKimmel@desmaraisllp.com>>> wrote:

Hi Phillip,

Sorry to hear that, I hope that you feel better soon. Can we plan for Thursday at 4pm?

Thanks,
Elizabeth

-----Original Message-----

From: Phillip Haack [mailto:phaack@fenwick.com]

Sent: Tuesday, February 21, 2017 11:12 AM

To: Elizabeth Kimmel

Cc: Jessica Benzler; Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com>; bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com>; IBM Groupon Service; dmoore@potteranderson.com<mailto:dmoore@potteranderson.com>;

Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com>

Subject: Re: Groupon-IBM (Del.) - IBM Discovery Responses

Elizabeth,

My apologies for the last-minute change, but could we reschedule this call to tomorrow or Thursday? I am out ill today. I am generally available on Thursday and could do between 2pm and 4pm or after 5:30pm (Eastern) tomorrow.

Thank you,
Phil

Sent from my phone.

On Feb 20, 2017, at 4:57 PM, Elizabeth Kimmel

<EKimmel@desmaraisllp.com<mailto:EKimmel@desmaraisllp.com><mailto:EKimmel@desmaraisllp.com>> wrote:

Thanks, Phillip. Please use the following dial-in for our meet and confer:

Call-in toll-free number: 1-866-835-1224 (US/Canada) Conference Code: 719 988 3373

Best,
Elizabeth

From: Phillip Haack [mailto:phaack@fenwick.com]

Sent: Friday, February 17, 2017 12:29 PM

To: Elizabeth Kimmel; Jessica Benzler

Cc: Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>;

'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>'; IBM Groupon Service;

'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>';

Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com><mailto:Groupon_IBM_Service@Fenwick.com>

Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Elizabeth,

That time will work for Groupon.

Thanks,
Phil

From: Elizabeth Kimmel [mailto:EKimmel@desmaraisllp.com]
Sent: Thursday, February 16, 2017 3:10 PM
To: Phillip Haack; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>;
'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>';
IBM Groupon Service;
'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>';
Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com><mailto:Groupon_IBM_Service@Fenwick.com>
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Thanks for confirming, Phillip. We propose 1pm Eastern, as that's the latest that our local counsel can be available. Please let us know if that works for you.

Thanks,
Elizabeth

From: Phillip Haack [mailto:phaack@fenwick.com]
Sent: Thursday, February 16, 2017 1:26 PM
To: Elizabeth Kimmel; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>;
'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>';
IBM Groupon Service;
'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>';
Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com><mailto:Groupon_IBM_Service@Fenwick.com>
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Yes, Tuesday the 21st.

From: Elizabeth Kimmel [mailto:EKimmel@desmaraisllp.com]
Sent: Thursday, February 16, 2017 6:56 AM
To: Phillip Haack; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>;
'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>';
IBM Groupon Service;
'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>';
Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com><mailto:Groupon_IBM_Service@Fenwick.com>
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Hi Phillip, can you please clarify whether you meant Tuesday the 21st, or a different date?

Thanks,
Elizabeth

From: Phillip Haack [mailto:phaack@fenwick.com]
Sent: Wednesday, February 15, 2017 8:12 PM
To: Elizabeth Kimmel; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>;
'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>;
IBM Groupon Service;
'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>;
Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com><mailto:Groupon_IBM_Service@Fenwick.com>
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Elizabeth,

Thank you for your letter. Jessica and I are not available to meet and confer tomorrow or Friday. Please let us know your availability to confer about the party's mutual discovery issues on Tuesday the 20th.

Best,
Phil

From: Elizabeth Kimmel [mailto:EKimmel@desmaraisllp.com]
Sent: Tuesday, February 14, 2017 1:43 PM
To: Jessica Benzler; Phillip Haack
Cc: Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>;
'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>;
IBM Groupon Service;
'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>;
Groupon_IBM_Service@Fenwick.com<mailto:Groupon_IBM_Service@Fenwick.com><mailto:Groupon_IBM_Service@Fenwick.com>
Subject: RE: Groupon-IBM (Del.) - IBM Discovery Responses

Phillip and Jessica,

Please see the attached letter.

Regards,
Elizabeth

From: Jessica Benzler [mailto:jbenzler@fenwick.com]
Sent: Wednesday, February 8, 2017 9:23 PM
To: Karim Oussayef; Elizabeth Kimmel; John Desmarais;
'bpalapura@potteranderson.com<mailto:bpalapura@potteranderson.com><mailto:bpalapura@potteranderson.com>;
IBM Groupon Service;
'dmoore@potteranderson.com<mailto:dmoore@potteranderson.com><mailto:dmoore@potteranderson.com>;
Cc: Phillip Haack; Saina Shamilov; David Hadden; Adam Lewin; jday@ashby-geddes.com<mailto:jday@ashby-geddes.com><mailto:jday@ashby-geddes.com>
Subject: Groupon-IBM (Del.) - IBM Discovery Responses

Karim,

Please see the attached letter.

Best,
Jessica

<image001.gif><<https://protect-us.mimecast.com/s/vleRBGu92XzFZ>>
Jessica Benzler

Fenwick & West LLP<<https://protect-us.mimecast.com/s/vleRBGu92XzFZ>>

Associate, Litigation Group

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<image004.gif>

jbenzler@fenwick.com<<mailto:jbenzler@fenwick.com>><<mailto:jbenzler@fenwick.com>>

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EXHIBIT 16

Michael Matulewicz-Crowley

From: Michael Matulewicz-Crowley
Sent: Wednesday, April 5, 2017 10:19 AM
To: Jessica Benzler; Jessica Benzler
Cc: Saina Shamilov; David Hadden; 'alewin@fenwick.com'; 'jday@ashby-geddes.com';
'bpalapura@potteranderson.com'; IBM Groupon Service;
'dmoore@potteranderson.com'; 'Groupon_IBM_Service@Fenwick.com'
Subject: RE: Groupon-IBM (Del.)

Please note that our source code reviewer (Chris Thompson) will return to review source code on Monday, April 10, starting at approximately 9:00 am Pacific, until Thursday, April 13. Please confirm that your office can accommodate him.

Regards,
Michael

EXHIBIT 17

Michael Matulewicz-Crowley

From: Michael Matulewicz-Crowley
Sent: Wednesday, May 3, 2017 10:14 AM
To: 'Jessica Benzler'; Phillip Haack
Cc: 'Saina Shamilov'; 'David Hadden'; 'alewin@fenwick.com'; 'jday@ashby-geddes.com';
'bpalapura@potteranderson.com'; IBM Groupon Service;
'dmoore@potteranderson.com'; 'Groupon_IBM_Service@Fenwick.com'
Subject: RE: Groupon-IBM (Del.)

Please note that our source code reviewer (Chris Thompson) will return to review source code on Monday, May 8, starting at approximately 12:00 pm Pacific, through Thursday, May 11. Please confirm that your office can accommodate him.

Regards,
Michael

EXHIBIT 18

Michael Matulewicz-Crowley

From: Brian Matty
Sent: Monday, May 15, 2017 6:38 PM
To: Phillip Haack; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com';
Groupon_IBM_Service@Fenwick.com; 'bpalapura@potteranderson.com';
'dmoore@potteranderson.com'; IBM Groupon Service
Subject: IBM-Groupon (Del.)

Counsel,

Please note that Chris Thompson and Doug Schmidt will be reviewing source code on Monday, May 22, through Wednesday, May 24. Please confirm that your office can accommodate them.

Regards,
Brian

Brian D. Matty
Desmarais LLP
230 Park Avenue
New York, NY 10169
(212) 808-2947
bmatty@desmaraisllp.com

EXHIBIT 19

Michael Matulewicz-Crowley

From: Brian Matty
Sent: Thursday, July 6, 2017 11:59 AM
To: Phillip Haack; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com';
Groupon_IBM_Service@Fenwick.com; 'bpalapura@potteranderson.com';
'dmoore@potteranderson.com'; IBM Groupon Service
Subject: IBM-Groupon (Del.)

Counsel,

Please note that Chris Thompson will be reviewing source code Wednesday, July 12, through Friday, July 14. Please confirm that your office can accommodate him.

Regards,
Brian

Brian D. Matty
Desmarais LLP
230 Park Avenue
New York, NY 10169
(212) 808-2947
bmatty@desmaraisllp.com

EXHIBIT 20

Michael Matulewicz-Crowley

From: Michael Matulewicz-Crowley
Sent: Thursday, July 20, 2017 4:46 PM
To: Phillip Haack; Jessica Benzler
Cc: Saina Shamilov; David Hadden; Adam Lewin; 'jday@ashby-geddes.com';
Groupon_IBM_Service@Fenwick.com; 'bpalapura@potteranderson.com';
'dmoore@potteranderson.com'; IBM Groupon Service
Subject: IBM-Groupon (Del.)

Counsel,

Please note that Chris Thompson and Doug Schmidt will be reviewing source code on Wednesday, July 26 through Friday, July 28. Please confirm that your office can accommodate them.

Regards,
Michael

Michael Matulewicz-Crowley | Associate

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

T: (212) 351-3400 | F: (212) 351-3401

D: (212) 808-2984 | E: mmatulewicz-crowley@dllp.com

EXHIBIT 21

Michael Matulewicz-Crowley

From: Michael Matulewicz-Crowley
Sent: Thursday, August 10, 2017 11:26 AM
To: 'Phillip Haack'; 'Jessica Benzler'; 'Saina Shamilov'; 'David Hadden'; 'Adam Lewin'; Sapna Mehta
Cc: 'jday@ashby-geddes.com'; 'Groupon_IBM_Service@Fenwick.com'; 'bpalapura@potteranderson.com'; 'dmoore@potteranderson.com'; IBM Groupon Service
Subject: IBM-Groupon (Del.)

Counsel,

Please note that Chris Thompson and Doug Schmidt will be reviewing source code on Monday, August 14 through Wednesday, August 16. Please confirm that your office can accommodate them.

Regards,
Michael

Michael Matulewicz-Crowley | Associate

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

T: (212) 351-3400 | F: (212) 351-3401

D: (212) 808-2984 | E: mmatulewicz-crowley@dllp.com

EXHIBIT 22

Michael Matulewicz-Crowley

From: Michael Matulewicz-Crowley
Sent: Monday, September 18, 2017 9:06 AM
To: 'Phillip Haack'; 'Sapna Mehta'
Cc: 'Day, John G.'; Groupon_IBM_Service@Fenwick.com; Palapura, Bindu A. (bpalapura@potteranderson.com); Moore, David E. (dmoore@potteranderson.com)
Subject: IBM-Groupon (Del.)

Counsel,

Please note that Chris Thompson will be reviewing source code on Tuesday, September 19 through Thursday, September 21. Please confirm that your office can accommodate him.

Regards,
Michael

Michael Matulewicz-Crowley | Associate

DESMARIS LLP

230 Park Avenue

New York, NY 10169

T: (212) 351-3400 | F: (212) 351-3401

D: (212) 808-2984 | E: mmatulewicz-crowley@dllp.com

EXHIBIT 23

**THIS EXHIBIT HAS BEEN
REDACTED IN ITS ENTIRETY**

EXHIBIT 24

**THIS EXHIBIT HAS BEEN
REDACTED IN ITS ENTIRETY**